IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3918 of 1985

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE SHARAD D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

A'BAD MUNI CORPN.

Versus

A'BAD DIST.CO.OP BANK LTD

Appearance:

1. Special Civil Application No. 3918 of 1985

MR SI NANAVATI for Petitioner No. 1

MS MALTIBEN N MODI for Respondent No. 1

MR PREM SINGH for MR YATIN SONI for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE SHARAD D.DAVE

Date of decision: 15/09/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

Heard learned counsel for the parties.

This is a petition of 1985 filed against the impugned judgment and order dated 12.10.1984 passed by the learned Judge of Small Causes Court No.2, Ahmedabad in Municipal Valuation Appeal No.1542/84 whereby the learned Judge partly allowed the appeal filed by the respondent-Bank.

Learned counsel for the petitioner, Mr.Devang Nanavati frankly stated that the impugned order challenged in this petition filed under Article 227 of the Constitution of India was appealable under Section 411 of the B.P.M.C. Act, 1959, therefore, without going into the merits of the case, this appeal was required to be dismissed.

In view of the above, a request was made by the learned counsel for the petitioner to withdraw this petition with a liberty to avail alternative remedy with a further request to condone the delay in filing the appeal late.

It is true that by now the appeal must have become hopelessly time barred. But, having regard to the facts and circumstances of the case and the fact that this petition was filed way back in 1985 and it was entertained at initial stage by the learned Single Judge of this court on 6.8.1985, therefore, we are of the considered opinion that if the petitioner files the appeal within a period of one month from today with an application for condonation of delay before the appellate authority, then the appellate authority, after condoning the delay may decide the same on merits and in accordance with law.

With these observations and directions this petition is disposed of as withdrawn. Ad-interim relief granted earlier stands vacated. Rule is discharged. No order as to costs.

(B.J.Shethna, J.)

(Sharad D. Dave, J.)

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